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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,922	06/06/2001	James E. Krahn	EXTS109.01	2527

7590 01/05/2004

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EXAMINER
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SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/876,922

Applicant(s)

KRAHN ET AL.

Examiner

Cristina O Sherr

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2001 and 10 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to the application filed 6 June 2001, and preliminary amendment filed 6 July 2001. Claims 1-7 are canceled by preliminary amendment. Claims 8-17 are pending in this case.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 23 July 2001 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

#### ***Specification***

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Double Patenting***

4. Claims 8-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7-8 and claims 1-3 of U.S. Patent No. 6,292,790B1. Although the conflicting claims are not identical, they are not patentably distinct from each other, as discussed below.

5. Regarding claims 8 and 13 –

Claim 7 of U.S. Patent No. 6,292,790B1 recites:

- initiating an export operation;
- polling the system administrator for the data password;
- retrieving each configuration variable from the configuration variable table;

- encrypting each private configuration variable retrieved;
- encrypting the data password;
- and writing the encrypted data password and each configuration persistent configuration text file.

6. Claim 7 of U.S. Patent No. 6,292,790B1 differs since it is an apparatus claim rather than a method claim (in the case of claim 8 of the instant application), or a computer program claim (as in claim 13 of the instant application), and further recites additional claim limitations including the elements that make up the apparatus such as a save configuration control apparatus and server configuration export apparatus to perform the specific functions listed above. However, it would have been obvious to a person of ordinary skill in the art to modify claim 7 of U.S. Patent No. 6,292,790B1 by removing certain limitations directed to the elements that make up an apparatus resulting in a method claim such as that of claim 7 since all three claims actually perform the same function. It is well settled that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA 1963). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969). Omission of a reference element whose function is not needed would be obvious to one of ordinary skill in the art.

7. Regarding claims 9 and 14 –

Claim 8 of U.S. Patent No. 6,292,790B1 recites:

- polling the system administrator for the name of the persistent configuration text file and the data password;

- comparing the data password to the encrypted data password to determine if the password is authentic;
- decrypting the private configuration variable if the data password is authentic;
- and updating each configuration variable with each public and decrypted private configuration variable from the persistent configuration text file if the data password is authentic or updating each configuration variable with only each public configuration variable from the persistent configuration text file if the data password is not authentic.

8. Claim 8 of U.S. Patent No. 6,292,790B1 differs since it is an apparatus claim rather than a method claim (in the case of claim 9 of the instant application), or a computer program claim (as in claim 14 of the instant application), and further recites additional claim limitations including the elements that make up the apparatus such as a save configuration control apparatus and server configuration import apparatus to perform the specific functions listed above. However, it would have been obvious to a person of ordinary skill in the art to modify claim 8 of U.S. Patent No. 6,292,790B1 by removing certain limitations directed to the elements that make up an apparatus resulting in a method claim such as that of claim 8 since all three claims actually perform the same function. It is well settled that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA 1963). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969). Omission of a reference element whose function is not needed would be obvious to one of ordinary skill in the art.

9. Regarding claim 10 and 15 –

Claim 1 of U.S. Patent No. 6,292,790B1 recites:

- deriving an encryption key from the data password;
- defining a plurality of configuration variables with a memory identifier, a memory value, a textual identifier, and a textual value;
- denoting each configuration variable as either a private variable or a public variable;
- deriving the textual value of each configuration variable denoted a public variable from the memory value of the public configuration variable;
- encrypting the textual value of each configuration variable denoted a private variable using the encryption key;
- hashing the data password into a textual hashed digest;
- writing the textual hashed digest to the persistent configuration text file; and
- for each configuration variable, writing the textual identifier and the textual value to the persistent configuration text file, and textually associating the memory identifier and the textual value in the persistent configuration text file.

10. Claim 1 of U.S. Patent No. 6,292,790B1 differs since it is an apparatus claim rather than a method claim (in the case of claim 10 of the instant application), or a computer program claim (as in claim 15 of the instant application), and further recites additional claim limitations including the elements that make up the apparatus such as a save configuration control apparatus and server configuration export apparatus to perform the specific functions listed above. However, it would have been obvious to a

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person of ordinary skill in the art to modify claim 1 of U.S. Patent No. 6,292,790B1 by removing certain limitations directed to the elements that make up an apparatus resulting in a method claim such as that of claim 1 since all three claims actually perform the same function. It is well settled that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA 1963). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969). Omission of a reference element whose function is not needed would be obvious to one of ordinary skill in the art.

11. Regarding claims 11 and 16 –

Claim 2 of U.S. Patent No. 6,292,790B1 recites:

- determining if the data password is authenticate;
- retrieving textual configuration variables from the persistent configuration text file; deriving a decryption key from the data password;
- decrypting the textual value of each private textual configuration variable retrieved using the decryption key;
- defining a plurality of configuration variables with a memory identifier, a memory value, a textual identifier, and a textual value;
- denoting each configuration variable as either a private variable or a public variable;
- for each textual configuration variable retrieved, deriving the memory value from the textual value of the textual configuration variable; and

- updating the corresponding public and private configuration variables if the data password is authentic or updating only the public configuration variables if the data password is not authentic.

12. Claim 2 of U.S. Patent No. 6,292,790B1 differs since it is an apparatus claim rather than a method claim (in the case of claim 11 of the instant application), or a computer program claim (as in claim 16 of the instant application), and further recites additional claim limitations including the elements that make up the apparatus such as a save configuration control apparatus and server configuration import apparatus to perform the specific functions listed above. However, it would have been obvious to a person of ordinary skill in the art to modify claim 2 of U.S. Patent No. 6,292,790B1 by removing certain limitations directed to the elements that make up an apparatus resulting in a method claim such as that of claim 2 since all three claims actually perform the same function. It is well settled that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA 1963). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969). Omission of a reference element whose function is not needed would be obvious to one of ordinary skill in the art.

13. Regarding claims 12 and 17 –

Claim 3 of U.S. Patent No. 6,292,790B1 recites:

- determining if the data password is authenticate;
- retrieving textual configuration variables from the persistent configuration text file;



- deriving a decryption key from the data password;
- decrypting the textual value of each private textual configuration variable retrieved using the decryption key;
- defining a plurality of configuration variables with a memory identifier, a memory value, a textual identifier, and a textual value;
- denoting each configuration variable as either a private variable or a public variable;
- for each textual configuration variable retrieved, deriving the memory value from the textual value of the textual configuration variable; and
- updating the corresponding public and private configuration variables if the data password is authentic or updating only the public configuration variables if the data password is not authentic.

14. Claim 3 of U.S. Patent No. 6,292,790B1 differs since it is an apparatus claim rather than a method claim (in the case of claim 12 of the instant application), or a computer program claim (as in claim 17 of the instant application), and further recites additional claim limitations including the elements that make up the apparatus such as a save/restore configuration control apparatus and server configuration import/export apparatus to perform the specific functions listed above. However, it would have been obvious to a person of ordinary skill in the art to modify claim 3 of U.S. Patent No. 6,292,790B1 by removing certain limitations directed to the elements that make up an apparatus resulting in a method claim such as that of claim 3 since all three claims actually perform the same function. It is well settled that the omission of an element

and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA 1963). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969). Omission of a reference element whose function is not needed would be obvious to one of ordinary skill in the art.

### ***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina O Sherr whose telephone number is 703-305-0625. The examiner can normally be reached on Monday through Friday 8:30 to 5:00.

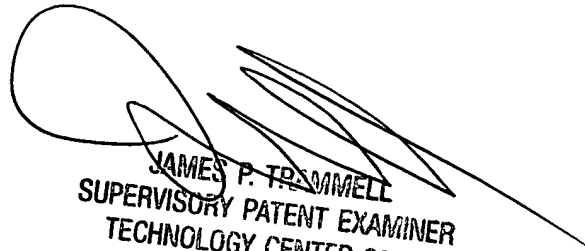
16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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